

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Duane Leroy Fox

v.

Civil No. 11-cv-295-SM

Superintendent, Strafford County
Department of Corrections

REPORT AND RECOMMENDATION

Fox has filed a motion seeking a temporary restraining order (doc. no. 13) enjoining the Strafford County Department of Corrections ("SCDC") from violating Fox's constitutional rights. The district judge has referred the motion to this magistrate judge for consideration and a recommendation as to disposition (doc. no. 18).

Plaintiff seeks an injunction against the SCDC. Plaintiff, however, has been transferred from the SCDC to a prison in Tennessee. Plaintiff does not allege any facts to indicate that anyone at the SCDC is presently violating his rights, or that there is any potential for anyone at the SCDC to violate his rights in the foreseeable future. On its face, the motion fails to assert any basis for granting injunctive relief. Accordingly, the court recommends that the motion for a

temporary restraining order (doc. no. 13) be denied on the papers.

Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011) (citing United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008)); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to magistrate judge's report are subject to review by district court; issues not preserved by such objection are precluded on appeal).



Landya McCafferty
United States Magistrate Judge

January 17, 2012

cc: Duane Leroy Fox

LBM:jba